IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 37852 of 2007(F)

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PETITIONER:

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GWALA G, AGED 58 YEARS, D/O. P.S. KUNJAMMA,
SANKAR NIVAS, TC 75/1080,
CHAYAKUDI LANE PETTAH, TRIVANDRUM.

BY ADV. SRI.C.V.MANUVILSAN
SRI.Y.CONSTANTINE
SRI.P.C.ANIL KUMAR

RESPONDENTS:

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1. STATE BANK OF INDIA, REPRESENTED BY ITS
   BRANCH MANAGER, KANNAMMOOLA, 8293,
   THIRUVANANTHAPURAM 11.
2. ASST. GENERAL MANAGER,
   STATE BANK OF INDIA,
   STRESSED ASSETS RESOLUTION CENTRE (SARC),
   ZONAL OFFICE, LMS COMPOUND, OPP. TVM. CORPORATION OFFICE,
   THIRUVANANTHAPURAM 33.

BY S.C. MR. P.V. SURENDRANATH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 37852 OF 2007 F

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Dated this the 19th December, 2007

J U D G M E N T

Proceedings initiated against the petitioner under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 leading to Ext. P2 tender notice is under challenge. It is unfortunate that the writ petition is filed only at the last minute when the tender itself is due for opening on the 21st of this month. Petitioner submits that this is her residential property and her attempt is only to save the property from a distress sale. Petitioner offers that she will deposit the entire money within 31st of March, 2008 and seeks that further proceedings be deferred to save the property.

2. I heard Standing Counsel who entered appearance on notice. It is pointed out that the petitioner has been a defaulter and that even notice issued under Section 13(2) has not evoked any response. It is submitted that even strangers have been inducted into the property and that the attempt of the Bank to take over possession was not successful.

3. True that the Bank is justified in conducting sale, but then the attempt of the petitioner seems to be the last endeavour to save the property from a distress sale. In view of this and also having regard to the fact that the petitioner has offered discharge the liability before 31-3-2008, I think, yet another chance should be given to the petitioner for paying the dues.

4. Accordingly, I dispose of this writ petition itself directing that the entire dues of the petitioner will be paid in three equal monthly instalments, the first of which will be payable on or before 21.12.2007 and the second instalment will be payable on or before 20-1-2008 and the 3rd instalment on or before 20-2-2008.

5. Subject to payment as above further proceedings pursuant to Exts. P1 and P2 will be deferred. It is made clear that in case the petitioner commits default in paying any one of the instalments as above, the Bank will be free to proceed with Exts. P1 and P2 without further notice to the petitioner.

ANTONY DOMINIC
JUDGE

jan/-